

April 16, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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SECOND REVISED REPORT AND RECOMMENDATION

SUBJECT: Department of Development and Environmental Services File No. **S128903A**
Proposed Ordinance No. **1999-0574**

PATTERSON CREEK PRESERVE

Preliminary Plat Application

Location: Lying approximately 5 miles southwest of Carnation, 2.5 miles north-west of Fall City and generally on the northerly side of SR 202 and generally bounded by SE 16th Street on the north, SE 24th Street on the south, 292nd Avenue SE on the west and 304th Avenue SE on the east, if all roads were extended

Applicant: Conservation Development, LLC, *represented by*
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North Bend, Washington 98045

Owner: Cascade Conservation Corporation, *represented by*
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Appellants: Neighbors Against Flooding, et al, *represented by*
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King County: Department of Development and Environmental Services
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SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions (modified)
Examiner's Decision:	Approve, subject to conditions (modified)

EXAMINER PROCEEDINGS:

Hearing opened:	April 13, 2004
Hearing closed:	April 13, 2004

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:**1. General Information:**

Applicant/Developer:	Conservation Development, LLC 43520 SE North Bend Way P.O. Box 2510 North Bend, WA 98045 (206) 919-5907
Owner:	Cascade Conservation Corporation 615 Second Avenue, Suite 625 Seattle, WA 98104 (206) 292-5907
Engineer:	Hugh G. Goldsmith & Associates, Inc. 1215 114 th Avenue SE Bellevue, WA 98009 Phone: (425) 462-1080
STR:	Portions of Sections 5 & 6, Range 24N, Township 7E
Location:	The proposal is located in the Snoqualmie Valley area of unincorporated King County, approximately 5 miles southwest of Carnation, 2.5 miles northwest of Fall City and 8 miles northeast of Issaquah. The 236-acre site lies generally on the northerly side of State Route 202 and generally bounded by SE 16 th Street on the north, S.E. 24 th Street on the south, 292 nd Avenue SE on the west, and 304 th Avenue SE on the east, if all roads were extended. The north boundary is adjacent to the approved Treemont North residential development, and the eastern boundary is adjacent to the Tall Chief Golf Course

Zoning:	General (G zoning – vested one-acre density at plat submittal December 30, 1988 Rural Area (AR-5 current zoning)
Acreage:	236 Acres
Number of Lots:	30
Density:	Approximately 8-acres per lot
Typical Lot Size:	Approximately 3 acres
Proposed Use:	Single-Family Residential
Sewage Disposal:	Individual Septic Tank
Water Supply:	Sammamish Plateau Water & Sewer District
Fire District:	#27
School District:	Snoqualmie Valley – District #410
Complete Application Date:	December 30, 1988 (Treemont original submittal)
Revision Application:	November 17, 2003 (Patterson Creek Preserve)

2. Except as modified herein, the facts set forth in the DDES preliminary report to the Hearing Examiner for the April 13, 2004, public hearing are found to be correct and are incorporated herein by this reference. The LUSD staff recommends approval of the application, subject to conditions. The principal revision to the staff report is that the pro rata share payment from the Applicant to WSDOT has been reduced from \$218,850 to \$82,357.75, with mitigation payments for the SR202/292nd Avenue Southeast intersection and the I-90/Sunset interchanges having been eliminated.
3. On December 30, 1988 a preliminary plat application was submitted by Port Blakely Tree Farms to subdivide 239 acres located east of SR 202 into 236 lots for single family development. At the time of filing the property was zoned G (General) under Title 21 of the zoning code and was submitted under the name Blakely Ridge South. On April 11, 1989 a determination of significance under SEPA was issued for the plat application and notice of scoping issued. In September 1989 a Rural 5-acre designation was applied to the property pursuant to the adoption of the Snoqualmie Valley Community Plan and its supporting zoning. Designation of the property for 5-acre development has been retained since 1989 until the present. During the course of review the application was renamed Treemont and revised downward by the Applicant to a 194 lot proposal.
4. The application first went to public hearing in 1999 and was forwarded by the Hearing Examiner to the County Council with a recommendation for approval of the 194 lot subdivision. This recommendation was appealed by area residents, and at the land use appeal hearing held June 5, 2000 the Council remanded the application back to the Examiner to reconsider findings on certain specified issues. A second set of hearings was held by the Examiner in March 2002, subsequent to which a revised recommendation was transmitted to the County Council for approval of the plat application at 83 lots. This recommendation was appealed by the Applicant, but the appeal hearing before the Council was deferred pending negotiations seeking an alternative resolution to the underlying contested issues. These negotiations resulted on August 29, 2003 in the conveyance by Port Blakely Communities of a conservation easement to King County limiting residential development to 30 lots on the eastern half of the property. On October 6, 2003 the County Council again remanded the Treemont preliminary plat application to the Hearing Examiner for review of a revised plat to be submitted implementing the terms of the conservation easement. The current proposal for Patterson Creek Preserve at 30 lots on approximately 100 acres was submitted in response to this latest remand order.

5. The record established in prior years for the Treemont plat application hearing is incorporated by reference within this proceeding. This includes the Hearing Examiner's May 9, 2002 revised report and recommendation, exhibits 1-243 as listed therein, and the tapes containing the recorded oral hearing testimony. The May 9, 2002 revised report and recommendation contains a detailed procedural history of the project up to that date as well as specific findings on the regulatory and environmental issues raised with respect to the application. Although they provide the context for a full understanding of the issues, these findings and conclusions will not be reiterated in detail within this second revised report and recommendation.
6. The SEPA record for this proceeding includes a draft environmental impact statement issued in 1994, an addendum and final EIS issued in 1999, and further environmental studies designated a supplemental EIS in 2002. DDES has determined that the discussion of environmental impacts within the Treemont environmental documents for the 47 lot rural plat alternative provides a legally adequate analysis of the 30 lots proposal presently under review. The property subject to review for the current proposal is identical to the original application submitted in 1988, but excludes the Schroeder parcel later added to the application for purposes of facilitating direct road access from the plat to SR 202. The current version of the revised plat application subject to review within this proceeding is the one dated January 20, 2004 which appears in the record as exhibit no. 27.
7. The primary changes proposed for the Patterson Creek Preserve preliminary plat application are the limitation of the residential area to 30 lots on the eastern half of the property, dedication of the western half of the property as permanent open space, elimination of direct plat access to SR 202, and deletion of a tightline transporting site drainage over steep slopes east to the Snoqualmie River. A major source of controversy with respect to the Treemont application was the necessity of either constructing a new access road directly to SR 202 over steep erosive slopes on the western half of the property or performing a major reconstruction of the existing intersection at Southeast 8th Street/SR 202 further to the north. By limiting plat development to 30 lots Patterson Creek Preserve will be able to use the existing Southeast 8th Street route without having to reconstruct it. The Washington Department of Transportation, which had originally determined that reconstruction of the SR 202/Southeast 8th Street intersection would be required after development in Treemont of more than 20 lots, has reconsidered its position and now deems the 30 lot proposal to be an acceptable level of development within the parameters of the existing intersection. WSDOT's current position appears to be based on a review of accident history at this location over the past 3 years, which shows almost no adverse occurrences. WSDOT has therefore concluded that its concerns about rear-end accidents caused by southbound left turn movements stopping traffic on SR 202 were overstated, and the existing intersection will suffice. As suggested by neighborhood residents, a higher level of traffic usage along Southeast 8th Street probably justifies centerline and fog line striping. But such routine road maintenance activities are normally dealt with outside the platting review framework.
8. The Applicant proposes to serve the residential plat by means of a private loop road that will exit the property at its northern boundary to Southeast 15th Place within the plat of Treemont North. The road system for Treemont North already features a 2,800 foot cul-de-sac serving 18 lots to which the loop road would connect. A road variance was granted by the County road engineer on April 12, 2004 to exceed 16 lots on a private road system, for a cul-de-sac in excess of 1,000 feet in length, and to install grass shoulders instead of the 4-foot gravel shoulders normally required. The road variance decision determined that no other alternative access route was

feasible and that emergency services and fire suppression requirements could be met with provision of a turn-around at the plat's gated entry, appropriate gating facilities for emergency vehicle access, and fire safety measures for construction on individual lots.

9. In addition to the intersection at SR 202 and Southeast 8th Street, the revised 30 lot plat will meet the 10 peak-hour/peak-direction threshold for the County's Road Adequacy Standards at the intersections of 292nd Avenue Southeast/SR 202, Duthie Hill Road/Trossachs Avenue Southeast and Duthie Hill Road/Issaquah-Beaver Lake Road in the PM peak hour. The SR 202/292nd Avenue Southeast intersection will meet the RAS threshold during the AM peak hour as well.

While adverse level of service conditions at the Duthie Hill Road intersections will be alleviated by improvements to be constructed by other developers, the current status of the proposed signalization project at SR 202/292nd Avenue Southeast near the southwestern corner of the site remains unclear. Due to its anticipated major impact earlier plat review was premised on Treemont installing a signal at this intersection. Although a November 5, 2003 memo from the Transpo Group suggests that the 292nd Avenue Southeast/SR 202 signal improvement has now become part of WSDOT's funded SR 202 upgrade package, hearing testimony from the WSDOT representative was to the effect that this project is currently unfunded. WSDOT has concluded that signal warrants at this intersection are currently met, but it is not proposing that Patterson Creek Preserve contribute to the signalization project due to its now relatively minor addition to the traffic problem. Looking at the transportation studies performed for Treemont it appears that a future level of service F condition at SR 202/292nd Avenue Southeast was largely assumed as self-evident. In actuality, until recently no traffic counts appear to have been done at the intersection. A traffic count done on October 8, 2003, as reported in the November 5, 2003 Transpo memo, suggests that the actual 2003 counts at this intersection are approximately 25% lower than were predicted in 2001 in the Treemont documents.

10. The Applicant's strategy for eliminating the drainage tightline over steep slopes east to the Snoqualmie River is predicated on being able to disperse and infiltrate all development area runoff on site. This is proposed to be accomplished through a combination of dispersion and infiltration trenches, limited road construction, site clearing restricted to no more than 1 ½ acres per lot, and the establishment of permanent forest stewardship protection tracts along the plat's boundaries. The plat is subject to level 2 flow control requirements under core requirement no. 3 of the 1998 Surface Water Design Manual, but an exemption from such requirements exists for rural residential development where 65% forested open space is retained, dispersal is provided over native vegetation, best management practices are employed, and the applicant can demonstrate that site runoff will not create a significant adverse impact to downhill properties or drainage systems.
11. For many years the conventional wisdom with respect to the Treemont property was that dispersal and infiltration were infeasible due to the existence of an impermeable upland till layer. It was known generally that this till layer thinned toward the east where underlying permeable advance outwashed soils were exposed, but it was assumed that the outwash soils exposure was not large enough to support a significant degree of infiltration. To make a long story short, further on-site test pit drilling has established that the surface exposure of advance outwash soils on the eastern portion of the property is more extensive than originally believed. As a result, a sufficient number of dispersal and infiltration facilities can be located in this area to accommodate the limited flows that will be generated by large lot rural development. In addition, the depth from the surface to the groundwater level within the outwash area is great

enough that the dispersal and infiltration facilities will create only very limited, localized groundwater mounding that will dissipate long before reaching the steep slope areas. In other words, infiltration of surface water flows into the outwash soils will not produce groundwater recharge that might destabilize off-site steep slopes.

12. In terms of the feasibility of the Applicant's proposed dispersal and infiltration system, the smallest margin of error may well lie not on the east side of the property adjacent to the steep slope areas but rather in the north where dispersal trenches will release flows toward the Treemont North neighborhood. What is misleading about the Applicant's most recent geological graphics is the suggestion that the till cap has a known boundary on its northern and western sides. The test log data simply do not support a conclusion that the till cap thins to the north or west in the manner represented in the geological drawings. Moreover, the existence of large wetland areas northwest of the residential area strongly suggests that the till cap at least extends to include these features. On the west side of the plat the proposed dispersal trenches will release into the extensive Tract A open space area, thus rendering moot any issues as to infiltration rates on that side of the property. On the north side, however, the proposed dispersal trenches are projected to have fairly high flow rates releasing within about 150 feet of the plat northern boundary. One assumes that these flows, if not infiltrated, will be picked up by the roadside ditch system along Southeast 15th Place, and that the ditch has adequate capacity to accept the increased flows. But nothing in the record actually addresses this question.

CONCLUSIONS:

1. If approved subject to the conditions imposed below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
2. The conditions of approval imposed herein, including dedications and easements, will provide improvements that promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

RECOMMENDATION:

APPROVE the preliminary plat application for Patterson Creek Preserve, as revised January 20, 2004, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the requirements of the G zone classification as set forth in KCC Title 21. All lots shall be generally as shown on the face of the approved preliminary plat, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.

4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
6. The applicant must obtain the approval of the King County Fire Protection Engineer certifying the adequacy of the fire hydrant, water main, and fire flow to meet the standards of Chapter 17.08 of the King County Code.

King County Fire Marshal will approve this plat with the following conditions:

- a. Any future residences constructed on lots within this plat will be sprinklered (NFPA 13D).
- b. Any gates on the access roadway shall open to a minimum unobstructed width of 20 feet. Any locking devices must be approved by King County Fire District #27.

Because of the wildfire risks due to the residences being surrounded by forest the Fire Marshal is requiring the following additional requirements to be incorporated as covenants on the properties.

- c. Class “C” (noncombustible) roofs will be required on all buildings.
 - d. A minimum 30-foot area around each building will be maintained to reduce the threat of wildfires and to allow an area to safely defend the structure from fire. Homeowners will be encouraged to maintain this defensible space by providing regularly maintained landscaped areas within the 30-foot area.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reconfiguration of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval, which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings #_____ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to

the final building inspection approval. For those lots that are designated for individual lot

infiltration or dispersion systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."

- d. The applicant submitted a drainage adjustment (L04V006) seeking relief from tightline requirements in landslide hazard drainage areas. As an alternative design, the proposed drainage plan includes dispersion and/or infiltration of storm water with the set-aside of 65% forested open space within each natural discharge area. The final plat and drainage plans shall comply with all applicable conditions of the adjustment decision, including the provisions for forested open space and best management practices as outlined in the drainage manual. To implement the requirements for individual building lots, the following note shall be shown on the recorded plat:

"All building permits for development within this plat shall be reviewed by King County for compliance with the King County Surface Water Design Manual, including small site drainage controls, best management practices, and the drainage adjustment decision for File No. L04V0006."

8. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
 - a. A road variance application (L03V0081) was submitted by the applicant to evaluate requirements for cul-de-sac length, private street standards, and shoulder design. The final plat and engineering plans shall comply with all applicable conditions of the variance decision.
 - b. The primary loop road within Patterson Creek Preserve shall be improved as a rural subaccess street. Any proposed gates shall be designed to comply with applicable County standards and be approved by the DDES fire engineer. The turn around bulb at the project entrance shall include a recorded public road easement.
9. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
10. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowners association. This shall be stated on the face of the final plat.
11. The following note shall be shown on the final engineering plan and recorded plat:

RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE AREAS AND BUFFERS

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The

vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

12. The proposed subdivision shall comply with the Sensitive Areas Code as outlined in King County Code 21A.24, in effect in August 1994. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (for example, with bright orange plastic construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
13. A homeowner's association or other workable organization shall be established to the satisfaction of DDES that provides for the ownership and continued maintenance of the open space / sensitive area tracts. The conditions, covenants and restrictions to be recorded for the plat shall be reviewed by DDES for compliance with the conservation easement, the forest management plan and these plat conditions, including consistency with the requirements of the road variance and drainage adjustment. DDES approval of the CC&Rs shall be obtained prior to recording the final plat.
14. Unless otherwise stated, protection, alteration and mitigation requirements for erosion hazard areas, steep slopes and landslide hazard areas found in KCC 21A.24 on August 1994 shall be applied to this plat. These requirements are further clarified and expanded upon below.
 - a. Steep slopes and their buffers shall be placed in sensitive area tracts. A minimum 15-foot building setback line shall be required from the edge of all sensitive area buffers. A 50 foot buffer must be provided from the top, toe and sides of all steep slopes. The buffer may be reduced to a minimum of 10 feet with the submittal of a satisfactory soils report.
 - b. The applicant shall delineate all on-site erosion hazard areas on the final engineering plans (erosion hazard areas are defined in K.C.C. 21A.06.415). The delineation of such areas shall be approved by a DDES geologist. The requirements found in K.C.C. 21A.24.220 concerning erosion hazard areas shall be met, including seasonal restrictions on clearing activities.
 - c. Cutting trees in steep slopes is not a permitted alteration under KCC 21A.24, except as specified in the Code. In the event that future regulations allow for forest management within steep slopes, such actions could be approved within the steep slope tracts provided they comply with all codes in effect at the time of that application. Any vegetation removal must be authorized in writing by King County D.D.E.S. or a successor agency and

- may require a clearing and grading permit.
- d. Vegetation removal from mapped landslide hazard areas on slopes less than 40% in grade shall be in accordance with K.C.C. 21A24.280. A forest management plan and appropriate supporting geotechnical and hydrological analyses must be submitted to King County DDES or a successor agency for review and approval.
 - e. Utility crossings may be allowed in steep slopes and landslide hazard areas provided they comply with the current relevant code.
 - f. Proposed clearing, storm water management and site development plans shall be reviewed and approved in writing by the project geotechnical engineer to insure no adverse impacts to the steep slopes and landslide hazard areas on and adjacent to the site.
15. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
16. The applicant shall pay the determined fee per the amount designated in the voluntary settlement agreement executed by the Applicant and WSODT per the Washington State Department of Transportation letter dated February 2, 2004 prior to final recording of the plat.
17. The homeowner association shall own Tract E. This tract has not been evaluated by King County for access feasibility and therefore no assurance is provided that it may be developed for its intended use by the adjacent property. An advisory note specifying these limitations on Tract E shall be placed on the final recorded map page.
18. The following revised conditions have been established under SEPA authority as requirements necessary to mitigate the adverse environmental impacts of this development. The applicant shall demonstrate compliance with these items prior to final approval.

Wetlands and Streams

Unless otherwise stated, the wetland and stream protection, alteration and mitigation requirements found in KCC 21A.24 shall be applied to this plat. These requirements are further clarified and expanded upon below.

- a. As identified in "Final EIS" Table 2.3.1, Class 1 wetlands shall have a minimum 100-foot buffer of undisturbed native vegetation, Class 2 wetlands shall have a minimum 50-foot and Class 3 wetlands shall have a minimum 25-foot buffer of undisturbed native vegetation.
- b. Class 3 streams on the site shall have a minimum 25-foot buffer of undisturbed native vegetation, measured from the ordinary high water mark.

- c. Wetlands, streams and their buffers shall be placed in sensitive area tracts. A minimum 15-foot building setback line shall be required from the edge of all sensitive area buffers.
- d. Alteration of vegetation or hydrology within wetlands, streams or their buffers is only allowed under certain circumstances. Wetlands, streams and their buffers may be enhanced with review and approval of an enhancement plan as specified in KCC 21A.24.330.P or 21A.24.370.K, resulting in a net improvement to functions of these systems, including habitat and hydrology. Wetland road crossings may be permitted when the criteria in KCC 21A.24.330.N are met, including a finding that there is no practical alternative. Stream crossings may be permitted subject to the criteria in KCC 21A.24.370.G. Hazard tree evaluation and issuance of a clearing permit for removal and replacement of hazard trees from a wetland, stream or their buffer may be allowed under KCC 16.82.050. Monitoring and removal of noxious weeds is allowed within buffers of wetlands and streams without a clearing permit under KCC 16.82.050, subject to limitations on the use of herbicides.
- e. Cutting trees in wetlands, streams or their buffers is not a permitted alteration under KCC 21A.24, except as specified in the Code. The applicant might be able to thin trees from these sensitive areas as suggested in the Forest Management Plan if the County law is changed in the future, subject to review and approval pursuant to a clearing and grading permit.
- f. Any approved alterations of streams and/or their buffers shall insure that there will be no net loss of stream functions on the proposal site and no negative impact on stream functions above or below the site due to said alterations.
- g. Any approved alterations to wetlands shall be mitigated by replacement or enhancement onsite, at a 2:1 area ratio for Class 1 or 2 wetlands and a 1:1 area ratio for Class 3 wetlands. Replacement or enhancement wetlands must provide equal or greater biologic functions, including habitat, and equivalent hydrologic functions.
- h. Any approved alterations to wetlands or streams or their buffers shall require that a mitigation plan be submitted for review along with the engineering plans. The mitigation plan must include proposed final grades, hydrologic calculations showing how the mitigation feature will function, and a detailed planting plan showing plant species, sizes and locations. The plan shall list goals and objectives, construction and installation notes, performance standards, and monitoring and maintenance measures. The mitigation plan shall be prepared in accordance with King County DDES' "Sensitive Area Mitigation Guidelines (1998 or as revised in the future)."
- i. Approval of a mitigation plan will include the requirement for posting financial guarantee(s) to insure installation and success of the plan. Monitoring for up to five years from the date of installation shall be required, prior to a final inspection of the mitigation plan. The financial guarantee(s) will be released when the performance standards have been met. If the performance standards have not been met at the conclusion of the monitoring period, a contingency plan will be required to remedy the situation, and the monitoring period may be extended.

Archaeology/Historic Preservation

These conditions are designed to insure that archaeological materials, if encountered, are evaluated and treated in the appropriate manner in accordance with State and County regulations.

- (a) a professional archaeologist prepare a discovery plan to implement immediately should resources be found during grading and excavation on site;
- (b) excavation and site preparation crews be trained by a professional archaeologist to recognize potential archaeological materials; and (3) the County grading/erosion monitor be trained and instructed to inspect carefully for potential archaeological materials during grading and other site preparation/disturbance on site.

The discovery plan should go into effect immediately if potential archaeological materials are encountered and should, at a minimum, include the following:

- (1) cessation of work where potential materials are discovered until they can be examined by a professional archaeologist and further appropriate actions undertaken;
- (2) immediate notification of an on-call professional archaeologist to evaluate the discovered materials;
- (3) immediate notification and consultation with the State Office of Archaeology and Historic Preservation, the King County Office of Cultural Resources and relevant tribes (including the Snoqualmie, Tulalip and Muckleshoot tribes) if discovered materials are prehistoric and a site is present;
- (4) provisions for further delineating any site present and obtaining an excavation permit and proceeding with data recovery if such action is deemed appropriate by the archaeologist and consulted parties; and
- (5) provisions for removal and reinterment of human remains, analysis and curation of other materials, stewardship and disposition, and reporting to the consulted agencies and tribes.

ORDERED this 16th day of April, 2004.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 16th day of April, 2004, to the following parties and interested persons of record:

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NOTICE OF RIGHT TO APPEAL

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) *on or before April 30, 2004*. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before May 7, 2004*. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

MINUTES OF THE APRIL 13, 2004, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. S128903A.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Rich Hudson, Todd Hurley, Laura Casey and Kristen Langley, representing the Department; Jay Allen and Konrad J. Liegel, representing the Applicants; and Robert Seana, Erik Enstrom, Curtis Koger, John Sutherland, Cindy Parks, Rod Brandon, Gene Duvenay and John Collins.

The following exhibits were offered and entered into the record:

Exhibit No. 1	DDES File No. S128903
Exhibit No. 2	DDES Preliminary Report dated April 13, 2004
Exhibit No. 3	Application dated November 17, 2003 (Revised)
Exhibit No. 4	Environmental documents previously admitted: DEIS 8/94; Addendum 3/99; FEIS 9/99; Supplemental EIS 2002 (as specified within conclusion 29 of the May 9, 2002 revised report and recommendation)
Exhibit No. 5	Notice of Hearing dated March 18, 2004
Exhibit No. 6	Revised Site Plan dated November 17, 2003
Exhibit No. 7	Road Variance letter to Eric Engstrom; approved with conditions dated April 12, 2004
Exhibit No. 8	Letter to Conservation Development LLC & Mark Barber from DDES regarding Drainage Adjustment approved April 8, 2004
Exhibit No. 9	Conceptual Drainage Plan dated January 23, 2004
Exhibit No. 10	WSDOT letter dated February 2, 2004; Traffic Mitigation Payment
Exhibit No. 11	Summary of Applicant's Proposal
Exhibit No. 12	Comment letter from I.O. Tomsevsics received April 6, 2004
Exhibit No. 13	Conceptual Entrance Plan
Exhibit No. 14	Letter to Allen & Company LLC from Fire District #27 dated January 20, 2004
Exhibit No. 15	Technical Memo Addendum from the Transpo Group to Jay Allen dated November 5, 2003
Exhibit No. 16	Colored Copy of Plat Map (reduced version & enlarged version)
Exhibit No. 17	Bio of Erik Enstrom of Goldsmith & Associates
Exhibit No. 18	Preliminary Drainage Control Plan
Exhibit No. 19A	Exemptions from Core Requirements from 1998 KCSWDM
19B	Rural Residential Projects from 1998 KCSWDM
19C	Roadway Dispersion BPS from 1998 KCSWDM
Exhibit No. 20	Cross Section of Plat for Dispersion Proximate to Steep Slopes
Exhibit No. 21	Site and Exploration Plan
Exhibit No. 22	Site and Exploration Plan and Surficial Geology
Exhibit No. 23	Conceptual Groundwater Flow across Patterson Creek Preserve
Exhibit No. 24	Deed of Conservation Easement
Exhibit No. 25	Forest Management Plan
Exhibit No. 26	Applicant Corrections/Suggested Revisions to DDES Addendum Report
Exhibit No. 27	Updated Site Plan (reduced version & enlarged version)

SLS:gao
S128903A RPT